

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: NATIONAL PRESCRIPTION OPIATE
LITIGATION**

MDL No. 2804

ORDER VACATING CONDITIONAL TRANSFER ORDER

Before the Panel:* The United States of America moves under Panel Rule 7.1 to vacate our order conditionally transferring a District of Massachusetts *qui tam* action listed on the attached Schedule A to the Northern District of Ohio for inclusion in MDL No. 2804. Defendants Purdue Pharma L.P., Purdue Pharma, Inc., and The Purdue Frederick Company support the motion. No party opposes the motion to vacate.

After considering the argument of counsel, we grant the motion to vacate. Without doubt, the action shares factual questions with the other MDL cases. Relator alleges that Purdue and the defendant distributors caused the submission of false claims to government healthcare programs (*i.e.*, Medicare, Medicaid) by knowingly failing to report providers who were engaged in diversion, and because Purdue should have introduced an abuse-deterrent formulation earlier but failed to do so until it was approved by the Food and Drug Administration in 2010. But no *qui tam* cases are pending in the MDL. The United States is moving to dismiss the action based on the False Claims Act's prior disclosure bar and relator's asserted lack of standing to pursue his claims. Resolution of this motion could obviate the need for transfer. If any claims survive and the action proceeds to discovery, then the parties agree that they will re-notice the action, and the Panel can reinitiate the conditional transfer process. Vacating the conditional transfer of this action in these circumstances will assist the transferee court in maintaining its focus on the principal tasks before it, which at present includes significant bellwether litigation, while ensuring the orderly progress of this *qui tam* action.

* Judges Ellen Segal Huvelle and Nathaniel Gorton did not participate in the decision of this matter.

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IT IS THEREFORE ORDERED that the Panel's conditional transfer order designated as "CTO-50" is vacated with respect to this action.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "Sarah S. Vance", is positioned above a horizontal line.

Sarah S. Vance
Chair

Lewis A. Kaplan
Catherine D. Perry

R. David Proctor
Karen K. Caldwell

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SCHEDULE A

District of Massachusetts

UNITED STATES OF AMERICA, ET AL. v. PURDUE PHARMA, L.P., ET AL.,
C.A. No. 1:16-10947